

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK

OVERSEAS PRIVATE INVESTMENT CORPORATION,

Plaintiff,

vs

PETER EUGENE GERWE,

Defendant.

Civil Action No.12CV-5833

ECF Case RA

COMPLAINT

Plaintiff, Overseas Private Investment Corporation (herein "OPIC"), by its attorney, Linda T. Taverni, Esq., as and for its Complaint against Defendant, alleges as follows:

INTRODUCTION

1. This is a civil action to recover an indebtedness due to the plaintiff, OPIC. OPIC brings this suit to recover monies due under a Loan Agreement and a Project Completion Agreement.

PARTIES

2. The plaintiff, OPIC, is an agency of the United States of America with principal offices at 1100 New York Avenue, N.W., Washington, D.C.20527.

3. The defendant, Peter Eugene Gerwe, is a natural person who, on information and belief, resides in the City of Moscow, Russian Federation.

JURISDICTION AND VENUE

4. The plaintiff is an agency of the United States government. The defendant is an American citizen with a permanent domicile in the state of California. The amount in controversy, without interest, default interest and costs, exceeds the sum or value specified by 28 U.S.C. § 1332. This Court has jurisdiction pursuant to 28 USC § 1332 and 28 USC § 1345.

5. Venue is proper in this Court pursuant to 28 USC § 1391(b)(3).

BACKGROUND

6. On or about the 2nd day of September, 2009, for valuable consideration, Closed Joint Stock Company "Star Networks" (hereinafter "Star Networks"), a closed joint stock company existing under the laws of the Russian Federation, as Borrower, executed and delivered to the plaintiff a Loan Agreement and certain Promissory Notes defined for Russian law purposes as "Debt Instruments" (the "Promissory Notes"), copies of which are annexed hereto and made a part hereof as Exhibits "A" and "B" respectively.

7. Pursuant to the terms of the Loan Agreement, defendant, Peter Eugene Gerwe executed and delivered to the plaintiff a Project Completion Agreement, a copy of which is annexed hereto and made a part hereof as Exhibit "C".

8. Pursuant to the terms of the Project Completion Agreement, defendant, Peter Eugene Gerwe, irrevocably and unconditionally agreed to guarantee the financial obligations of Star Networks under the Loan Agreement, and, in the event of any failure by the Borrower to make payments when due, to pay such amounts until the Borrower reached certain performance levels.

9. Defendant, Peter Eugene Gerwe, further agreed that to make such payments up to an aggregate amount of Five million dollars (\$5,000,000.00).

10. Pursuant to the terms of the Project Completion Agreement, the defendant, Peter Eugene Gerwe, expressly agreed to submit himself to the jurisdiction of the courts of the state of New York.

11. Pursuant to the terms of the Project Completion Agreement, the defendant, Peter Eugene Gerwe, expressly agreed that New York State law would apply to any action brought to enforce the terms thereof.

12. Pursuant to the terms of the Project Completion Agreement, the defendant, Peter Eugene Gerwe, agreed to indemnify Plaintiff for all costs and expenses incurred in connection with the enforcement thereof.

DEFAULT

13. Borrower failed to meet the performance levels specified in the Project Completion Agreement.

14. Borrower is in default in payments of principal, interest and default interest under the terms of the Loan Agreement and Promissory Notes.

15. Borrower expressly agreed that in the event of default, the entire outstanding principal amount, interest and default interest on the Promissory Notes would be immediately due and payable at the option of the holder.

16. Plaintiff, OPIC, has elected and demanded payment of the total unpaid principal, interest and default interest balance.

17. As of June 15, 2012, the total outstanding balance due and owing to plaintiff under the Loan and the Promissory Notes is Nine million, twenty-eight thousand, two hundred sixty-two and 46/100 Dollars (\$9,028,262.46), inclusive of principal, interest and default interest.

**FIRST CAUSE OF ACTION
(Breach of contract/guarantee)**

18. The plaintiff repeats each and every allegation in paragraphs 1 through 17 as if set forth fully herein.

19. The defendant, Peter Eugene Gerwe, has breached the Project Completion Agreement and his guaranty obligation set forth therein by failing to make timely and full payment of the amounts due and owing by Star Networks

20. By reason of the foregoing, there is due to the plaintiff from the defendant, Peter Eugene Gerwe, on the First Cause of Action, the sum of Five million and 00/100 Dollars (\$5,000,000.00), plus costs, disbursements, applicable surcharges, post-judgment interest and reasonable expenses including attorney's fees.

WHEREFORE, the plaintiff demands judgment against the defendant, Peter Eugene Gerwe:

- a. on the First Cause of Action in the amount of Five million and 00/100 Dollars (\$5,000,000.00), together with costs, disbursements, applicable surcharges, post-judgment interest and reasonable expenses including attorney's fees; and
- b. such other and further relief as the Court may deem just.

DATED: July 26, 2012

s/Linda T. Taverni
LINDA T. TAVERNI, ESQ.
826 Atateka Drive
Chestertown, New York 12817
(518) 494-4558
Email: tavernis@hotmail.com
Attorney for Plaintiff